## The Minutes

## May 20, 2002

# MISC. ORDER 2002-05

### BY THE COURT:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 75, 76, 77 and 78, during the absence of the Presiding Justice from the court on May 24, 2002, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Scotland, Presiding Justice; Davis, Associate Justice; Callahan, Associate Justice; and Guzman, Bailiff. Calendar Called.

## C036661

## **SMITH v. AREA DEVELOPERS**

Cause called. Robert P. Biegler argued for appellant. No appearance was made on behalf of respondent as argument was previously waived and approved. Cause submitted.

At 9:50 a.m., the court recessed. At 9:52 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Davis and Associate Justice Callahan.

#### C037352

## **NEWELL v. HAUSCHILDT et al.**

Cause called. Linda D. Boudier argued for appellant. Michael K. Pazdernik argued for respondents. Cause submitted.

At 10:13 a.m., the court recessed. At 10:26 a.m., the court reconvened with Acting Presiding Justice Sims and Associate Justice Kolkey. Associate Justice Nicholson was not present.

#### C036514

# AEROJET-GENERAL CORPORATION v. TRANSCONTINENTAL INSURANCE COMPANY et al.

Cause called. All counsel orally stipulated that Justice Nicholson could participate by cassette tape. Scott P. DeVries argued for appellant. Deborah E. Beck and Carl L. Blumenstein appeared only for appellant. Steven M. Crane argued for respondent Transcontinental Insurance Company. Kevin P. Kamraczewski argued for respondent United States Fire Insurance Company. Cause submitted.

## The Minutes

## May 20, 2002, continued

# C037097 AEROJET-GENERAL CORPORATION v. UNITED STATES FIRE INSURANCE COMPANY et al.

Cause called. All counsel orally stipulated that Justice Nicholson could participate by cassette tape. Scott P. DeVries argued for appellant. Deborah E. Beck and Carl L. Blumenstein appeared only for appellant. Steven M. Crane argued for respondent Harbor Insurance Company. Kevin P. Kamraczewski argued for United States Fire Insurance Company. Cause submitted.

At 11:08 a.m., the court recessed. At 2:00 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims and Associate Justice Nicholson.

## C037586 SLOCUM et al. v. CAMPBELL et al.

Cause called. Janice Slocum argued for herself in pro per as appellant. Albert Slocum appeared only and submitted additional citations. Eric R. Wiesel argued for respondents. Cause submitted.

At 2:18 p.m., the court recessed. At 2:22 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Nicholson and Associate Justice Hull.

# C032494 NEC BUSINESS COMMUNICATION SYSTEMS (WEST), INC. et al. v. STATE OF CALIFORNIA and PACIFIC BELL, etc., et al.

Cause called. Craig J. de Recat argued for appellant GTE California, Inc. Candace A. Younger appeared only. Paul F. Dauer argued for appellants NEC Business Communication Systems et al. and submitted additional citations. Jennifer Dauer McCready appeared only. Ramon de la Guardia, Deputy Attorney General, argued for respondent. Robert S. Metzger argued for respondent MCI Telecommunications Corp. Bobby C. Lawyer argued for respondent Pacific Bell, etc. Cause submitted.

At 3:23 p.m., the court recessed. At 3:30 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Davis and Associate Justice Morrison.

# C038757 BARCA v. VILLAGE GREENS CONDOMINIUM HOMEOWNERS ASSOCIATION et al.

Cause called. Joseph H. Marman argued for appellant. Charity Kenyon argued for respondents. Cause submitted.

At 3:48 p.m., the court recessed. At 3:53 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Davis and Associate Justice Callahan.

## The Minutes

## May 20, 2002, continued

C038105 JONES v. GOURLEY, etc.

Cause called. Kristin M. Daily, Deputy Attorney General, argued for appellant.

Stephen A. Munkelt argued for respondent. Cause submitted.

At 4:24 p.m., the court recessed until 9:30 a.m., Tuesday, May 21, 2002.

C037179 THE PEOPLE v. SCHULTZ

(Not for Publication)

The judgment is affirmed in its entirety.

BLEASE, Acting, P.J.

We concur: Sims, J.

Davis, J.

C037719 THE PEOPLE v. LOPEZ (Not for Publication)

The judgment is affirmed.

DAVIS, J.

I concur: Raye, J.

I concur in the result reached by the majority...

Scotland, P.J.

C038410 THE PEOPLE v. ONE BLAUPUNKT CELLULAR TELEPHONE et al.

(Not for Publication)

The judgment of forfeiture is reversed and the case is remanded for further

proceedings. Appellant is awarded his costs on appeal.

DAVIS, Acting P.J.

We concur: Nicholson, J.

Callahan, J.

C039116 THE PEOPLE v. COLLIER (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.

Davis, J.

C039533 THE PEOPLE v. ZAMORA (Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Raye, J.

Morrison, J.

C037584 AIR MAXIMUM, INC., v. BRCO CONSTRUCTORS, INC.,

(Not for Publication)

The judgment is affirmed.

DAVIS, Acting P.J.

We concur: Nicholson, J.

Hull, J.

## The Minutes

## May 20, 2002, continued

#### C038937 McCullough v. Department of Personnel Administration (Not for Publication)

The judgment is reversed with directions to issue a writ commanding the DPA to set aside its decision that the plaintiff had withdrawn her appeal and to remand the matter for a hearing on the merits of her appeal. The plaintiff shall recover her costs of appeal.

DAVIS, J.

We concur: Blease, Acting P.J.

Hull. J.

#### C040563 TRINA P. v. THE SUPERIOR COURT OF SAN JOAQUIN COUNTY and SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY et al.

(Not for Publication)

The petition is denied. The request for stay is denied as moot.

SCOTLAND, P.J.

We concur: Raye, J.

Callahan, J.

#### C035762 STATE FARM AUTOMOBILE INSURANCE COMPANY v. ESKANOS (Not for Publication)

BY THE COURT:

Appellant's petition for rehearing is denied.

SCOTLAND, P.J.

## May 21, 2002

At 9:32 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Davis, Acting Presiding Justice; Hull, Associate Justice; Kolkey, Associate Justice; and Facey, Bailiff. Calendar Called.

#### C038472 THE PEOPLE v. DREW, III

C035554

Cause called. Charles M. Bonneau, court appointed counsel, argued for appellant. Michael Farrell, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:08 a.m., the court recessed. At 10:13 a.m., the court reconvened with Acting Presiding Justice Hull and Associate Justice Kolkey. Associate Justice Nicholson was not present.

#### BROWN v. REGENTS OF THE UNIVERSITY OF CALIFORNIA C034381

Cause called. All counsel orally stipulated that Justice Nicholson could participate by cassette tape. Martin Blake argued for appellant. Barbara S. Perry argued for respondent. Cause submitted.

## The Minutes

## May 21, 2002, continued

At 10:50 a.m., the court recessed. At 10:58 a.m., the court reconvened with Acting Presiding Justice Raye and Associate Justice Morrison. Associate Justice Nicholson was not present.

## C037608

## LIND et al. v. TIG INSURANCE COMPANY et al.

Cause called. All counsel orally stipulated that Justice Nicholson could participate by cassette tape. Joel D. Bierer argued for appellants. James G. Boedecker argued for respondents. Cause submitted.

At 11:35 a.m., the court recessed. At 2:02 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison and Associate Justice Callahan.

#### C038619

## HANSEN v. THE PERMANENTE MEDICAL GROUP, Inc., et al.

Cause called. Dr. Carmen Hansen, M.D. argued as herself in pro per as appellant. Norman C. Hile argued for respondents. Trish Higgins appeared only. Cause submitted.

At 2:20 p.m., the court recessed. At 2:23 p.m., the court reconvened with Acting Presiding Justice Morrison, Associate Justice Hull and Associate Justice Kolkey.

### C037432

## THE PEOPLE v. BRAY

Cause called. Charles M. Bonneau, court appointed counsel, argued for appellant. Susan Rankin Bunting, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:48 p.m., the court recessed. At 2:52 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison and Associate Justice Hull.

### C040583

## In re DEBRA K. SCHMIDT on Habeas Corpus.

## C040942 C040966

Cause called. Rollie M. Pennington argued for petitioner. Charles A. French, Deputy Attorney General, argued for real party in interest. Cause submitted.

At 3:50 p.m., the court recessed until 9:30 a.m., Wednesday, May 22, 2002.

#### C038848

## THE PEOPLE v. MILAM

(Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Morrison, J.

Hull, J.

## The Minutes

## May 21, 2002, continued

C038057 PETRE et al. v. IMPLEMENTED TRANSITIONS et al.

The judgment is affirmed. (Not for Publication)

DAVIS, J. Acting P.J.

We concur: Hull, J.

Kolkey, J.

C038595 In re MELISSA M. et al.; PLACER COUNTY DEPARTMENT OF HEALTH AND

HUMAN SERVICES v. TINA B. (Not for Publication

The orders of the juvenile court are affirmed.

KOLKEY, J.

We concur: Davis, Acting P.J.

Morrison, J.

C039326 In re T.W. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND

HUMAN SERVICES v. P.W. (Not for Publication)

The order of the juvenile court terminating the parental rights of appellant is

affirmed.

RAYE, J.

We concur: Scotland, P.J.

Callahan, J.

## May 22, 2002

At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Scotland, Presiding Justice; Morrison, Associate Justice; Kolkey, Associate Justice; and Rios, Bailiff. Calendar Called.

### C030915 THE PEOPLE v. TODD et al.

Cause called. Richard J. Krech, court appointed counsel, argued for appellant Silva. Eleanor Kraft, court appointed counsel, argued for appellant Todd. John A. Thawley, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:16 a.m., the court recessed. At 10:20 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison and Associate Justice Kolkey.

## C032839 THE PEOPLE v. STOWELL

Cause called. Bradley Bristow, court appointed counsel, argued for appellant and submitted additional citations. David Andrew Eldridge, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:45 a.m., the court recessed. At 10:47 a.m., the court reconvened with Acting Presiding Justice Sims and Associate Justice Morrison. Associate Justice Nicholson was not present.

## The Minutes

## May 22 2002, continued

## C037622 GARCIA, etc. v. REHRIG INTERNATIONAL, Inc.

Cause called. All counsel orally stipulated that Justice Nicholson could participate by cassette tape. Marjorie E. Manning argued for appellant. Michael J. Trezza argued for respondent. Cause submitted.

At 11:12 a.m., the court recessed. At 11:13 a.m., the court reconvened with Acting Presiding Justice Davis and Associate Justice Hull. Associate Justice Nicholson was not present.

## C036803 ANDERSON v. BOARD OF PSYCHOLOGY et al.

Cause called. All counsel orally stipulated that Justice Nicholson could participate by cassette tape. Karen Anderson argued for herself in pro per as appellant. Mara Faust, Deputy Attorney General, argued for respondents. Cause submitted.

At 11:27 a.m., the court recessed. At 11:31 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye and Associate Justice Hull.

### C036565 THE PEOPLE v. MARTIN

Cause called. Michael Rothschild argued for appellant. Janet E. Neeley, Deputy Attorney General, argued for respondent. Cause submitted.

At 12:12 p.m., the court recessed. At 2:01 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Raye and Associate Justice Hull.

## C038586 BARKER v. VULCAN CHEMICAL TECHNOLOGIES, INC., et al.

Cause called. Joseph S. Genshlea argued for appellants. Jeffrey M. Anderson, James M. Schurz and A. H. Gaede, Jr. appeared only for appellants. Hartley T. Hansen argued for respondent. Kevin R. Culhane and Hugh E. Comisky, Jr. appeared only for respondent. Cause submitted.

At 2:47 p.m., the court recessed. At 2:55 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Raye and Associate Justice Callahan.

## C037154 BABB v. BABB

C038228 Cause called. Robert A. Roth argued for appellant. Harrison L. Goodwin argued for respondent. Cause submitted.

At 3:25 p.m., the court recessed. At 3:33 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Raye and Associate Justice Morrison.

## The Minutes

## May 22 2002, continued

## C037215 THE PEOPLE v. MARCHAND

Cause called. John L. Staley, court appointed counsel, argued for appellant. No appearance was made on behalf of respondent as argument was previously waived and approved. Cause submitted.

At 3:41 p.m., the court recessed. At 3:46 p.m., the court reconvened with Acting Presiding Justice Morrison, Associate Justice Callahan and Associate Justice Kolkey.

## C036312 GORMAN v. CROTTY et al.

Cause called. Jay-Allen Eisen argued for appellant. Philip E. Carey argued for respondents. Cause submitted.

At 4:11 p.m., the court recessed until 9:30 a.m., Friday, May 24, 2002.

## C037310 THE PEOPLE v. DOLAN (Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Hull, J.

Kolkey, J.

## C039200 THE PEOPLE v. STERRY (Not for Publication)

The judgment is affirmed.

KOLKEY, J.

We concur: Davis, Acting P.J.

Morrison, J.

## C039691 In re JESSIE C. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH

AND HUMAN SERVICES v. DEBORAH C.

(Not for Publication

The orders are affirmed.

SCOTLAND, P.J.

We concur: Davis. J.

Kolkey, J.

## The Minutes

## May 23, 2002

C035118 THE PEOPLE v. ROSALES

(Not for Publication)

The trial court is directed to prepare a corrected abstract of judgment to reflect the sentence imposed for violation of section 245, subdivision (d) (2) as nine years, stayed pursuant to section 654. The trial court shall forward a certified copy of the corrected abstract of judgment to the Department of Corrections. The judgment is affirmed.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Hull. J.

C035528 THE PEOPLE v. SCHARF

(Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Morrison, J.

C035707 THE PEOPLE v. WEGER

(Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Morrison, J.

C036250 THE PEOPLE v. BUTLER

(Not for Publication)

The judgment and sentence are modified to strike defendant's term of 25 years to life under section 12022.53, subdivision (d), run consecutive to his sentence on count 1 for second degree murder, and to replace that term with a term of 10 years under section 12022.53, subdivision (b), also run consecutive to the sentence on count 1 for murder. The trial court is also directed to amend the abstract of judgment to show this modification and to award defendant 445 days of presentence custody credit and to forward a certified copy of the amended abstract to the Department of Corrections. In all other respects, defendant's conviction and sentence are affirmed.

SIMS, Acting P.J.

We concur: Nicholson, J.

Morrison, J.

C038054 THE PEOPLE v. GILMAN

(Not for Publication)

The judgment (order granting probation) is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Hull, J.

## The Minutes

## May 23 2002, continued

C038991 THE PEOPLE v. VICE (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.

Hull, J.

C037609 BONTA, etc. v. BURKE et al.

The judgment is reversed. The parties shall bear their own costs of appeal.

[CERTIFIED FOR PUBLICATION.]

RAYE, J.

We concur: Scotland, P.J.

Davis, J.

C038824 THE PEOPLE v. GRIJALVA (Not for Publication)

THE COURT:

It is ordered that the opinion filed herein on April 25, 2002, be modified as

follows...This modification does not change the judgment.

Defendant's and Respondent's petitions for rehearing are denied.

FOR THE COURT:

Sims, Acting P.J.

Davis, J. Morrison, J.

May 24, 2002

C037949 THE PEOPLE v. YARBROUGH III (Certified for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Scotland, P.J.

Sims, J.